

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION
CASE NO. 1:13-CV-703**

JAMES MAHONEY,

Plaintiff,

v.

**MORTGAGE INVESTORS
CORPORATION OF OHIO, also doing
business as MORTGAGE INVESTORS
CORPORATION,**

Defendant.

NOTICE OF REMOVAL

TO THE CLERK OF COURT:

Defendant Mortgage Investors Corporation (“MIC”), through its undersigned counsel, hereby removes this action from the General Court of Justice, Superior Court Division, Guilford County, North Carolina, to the United States District Court, Middle District, Greensboro Division, pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446. In support thereof, MIC states as follows:

1. On or about July 26, 2013, Plaintiff filed this action in the General Court of Justice, Superior Court Division, Guilford County, North Carolina, Case No. 13-CVS-7338. True and correct copies of all process, pleadings, and orders filed to date in the State Court Action are attached hereto as Exhibit 1 and Exhibit 2. No other process, pleadings, or orders have been served upon Defendants to date in this case. Trial has not commenced in this case.

2. The Complaint was served on MIC on July 29, 2013.

3. This Notice of Removal is filed within thirty days after service of process on MIC and it is therefore timely under 28 U.S.C. § 1446(b).

4. The General Court of Justice, Superior Court Division, Guilford County, is located within the Middle District of North Carolina, Greensboro Division, and venue is therefore proper under 28 U.S.C. § 1441(a).

5. This action is properly removable under 28 U.S.C. § 1441 because Plaintiff has asserted claims based on alleged violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227(c) and one of its implementing federal regulations, 47 C.F.R. § 64.1200(d). Compl. ¶¶ 30-35. The United States Supreme Court has held that claims brought under the TCPA, a federal statute, “plainly ‘aris[e] under’ the ‘laws of the United States’” for purposes of federal question jurisdiction and, therefore, this Court would have original jurisdiction over this action pursuant to 28 U.S.C. § 1331. *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct 740, 748 (2012). Accordingly, removal of this action is proper under 28 U.S.C. §§ 1441 and 1446.

6. This Court also has supplemental jurisdiction over Plaintiff’s state-law claims pursuant to 28 U.S.C. § 1367, because those claims are based on the same factual allegations as Plaintiff’s federal claims and, therefore, they form part of the same case or controversy.

7. The Complaint includes a demand for jury trial.

8. Pursuant to 28 U.S.C. § 1446(d), MIC will file a copy of this Notice of Removal with the General Court of Justice, Superior Court Division, Guilford County,

North Carolina, and will serve a copy of this Notice of Removal on Plaintiff through his counsel.

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, defendant Mortgage Investors Corporation hereby removes this lawsuit from the General Court of Justice, Superior Court Division, Guilford County, North Carolina, to the United States District Court, Middle District, Greensboro Division.

Dated: August 27, 2013

s/ Heyward H. Bouknight III
Heyward H. Bouknight III
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Attorneys for Defendant

*Of Counsel (Electronic Filing Registration
pending and Notices of Appearance to be
filed to appear as Special Appearance
Counsel pursuant to Local Rule 83.1):*

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing using the CM/ECF system, and I additionally served the foregoing upon each of the parties to this action via United States mail, first class postage prepaid, addressed as follows:

John T. O'Neal
O'Neal Law Office
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Counsel for Plaintiff

This 27th day of August, 2013.

s/ Heyward H. Bouknight III
Heyward H. Bouknight III